

*SC NAACP v. Alexander,*  
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

# **Exhibit 16**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

THE SOUTH CAROLINA STATE

CONFERENCE OF THE NAACP,

et al.,

Plaintiffs,

vs.

CASE NO.: 3:21-CV-03302-MBS-TJH-RMG

THOMAS C. ALEXANDER,

et al.,

Defendants.

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VIDEOTAPED	(Appearance via Video Conference)
DEPOSITION OF:	PAULA BENSON
DATE:	July 13, 2022
TIME:	10:04 a.m.
LOCATION:	Robinson Gray
	1310 Gadsden Street
	Columbia, South Carolina
TAKEN BY:	Counsel for the Plaintiffs
REPORTED BY:	Mary K. Stepp, Court Reporter
	(Appearance via Video Conference)

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BERNSTEIN

Do you see that?

A. I do, subsection or Roman numeral VII.

Q. It lists a variety of factors that may contribute to a community of interest. One of them, for example, being voting behavior or C?

Do you see that?

A. I do.

Q. What does that mean?

MR. MOORE: Objection as to form.

Q. What does voting behavior mean?

A. In reading this I mean it could be whether or not the community is involved in the voting process, the percentage of voting age population that actually goes to the polls and votes is how I would interpret it. I guess you could even go further and say whether or not in the primary because we don't

1 Q. Did the binders, would they include BVAP  
2 information?

3 A. Only if that was part of what was printed  
4 out from the Maptitude program software.

5 Q. When you say, "only if that was part of  
6 what was printed out of the Maptitude software," I  
7 guess was it ever part -- my question to you is that,  
8 was it ever part of what was printed out of the  
9 Maptitude software?

10 A. I -- I believe that there were times that  
11 that information was included. As I understood,  
12 Maptitude had a certain set information that was  
13 printed out on a -- on each particular plan. And  
14 once that there were plans for consideration, those  
15 Maptitude pages were also run, which had that  
16 information on it.

17 Q. Uhm, do you know what kind of BVAP  
18 breakdown Maptitude printed out? Was it, for  
19 example, district by district BVAP analysis?

20 A. I -- I do not remember with certainty.  
21 If -- if -- it seems as if -- honestly, I -- I would  
22 have to look at documentation. I -- I don't remember  
23 with certainty. I -- it seems as if it were district  
24 by district, but I -- I'm -- I'm -- I'm making a  
25 guess at that.

1 A. Yes.

2 Q. So what is this document?

3 A. These are the 2021 Redistricting  
4 Guidelines that were adopted by the Senate Judiciary  
5 Committee Subcommittee on redistricting to be the  
6 guidelines to be used in drawing maps and evaluating  
7 proposals.

8 Q. Thank you. And what -- what was  
9 the -- what was the point of the guidelines?

10 A. That -- to acknowledge the legal  
11 requirements and also to look to requirements  
12 that -- or -- or if not necessarily requirements to  
13 other factors that the courts have established that  
14 may be considered in the redistricting process.

15 Q. Is it only legal requirements or -- or do  
16 they contain requirements that the legislature might  
17 also consider important?

18 A. Yes, both.

19 Q. And -- and why -- why does the  
20 subcommittee adopt a document like this?

21 A. This -- this has been the tradition in  
22 each of the cycles of redistricting that I -- I have  
23 been involved in. As -- in essence, the guidelines  
24 that the subcommittee will follow in order to be able  
25 to evaluate and to propose plans for consideration.

1 guidelines were adopted.

2 Q. Thanks. Did -- did the final guidelines  
3 also include input from members of the public?

4 A. The guidelines were not adopted until  
5 after all of the public hearings were held. During  
6 those public hearings, we have documents that were  
7 disseminated to the public and -- and we encouraged  
8 the public to give us information on the items that  
9 they considered very important to include in the  
10 guidelines.

11 Q. And did you get any such information?

12 A. We did. Yes.

13 Q. How so?

14 A. Very -- very often there were many people  
15 who were urging that counties be kept whole to the  
16 extent possible. There were many who were  
17 recommending that precincts or VTDs not be flipped.

18 We received a lot of information about  
19 particular communities of interest and how people  
20 defined communities of interest. And what things  
21 that they looked at and what made a community of  
22 interest. And all of that was definitely considered.

23 Q. And how did the guidelines impact the work  
24 of staff in the redistricting process, once they were  
25 adopted?

1           compelling state interest."

2           Q.       So, what did you understand "consideration  
3           of race is permissible" to mean?

4           A.       That we could take into consideration  
5           information that we had received from -- through the  
6           testimony concerning where racial communities  
7           existed, where there were issues that a racial  
8           community would have in common, and to consider that  
9           that -- that group needed to, to the extent possible,  
10          be kept together in order to have the most effective  
11          representation.

12          Q.       Based on -- in your experience and  
13          knowledge, what are ways to determine that a map is a  
14          result of racial gerrymandering?

15          A.       I -- I think very often in the past,  
16          and -- and I think Shaw versus Reno was an example of  
17          it. Shape certainly comes into consideration, oddly  
18          shaped districts. Districts where municipalities  
19          and -- and counties are split in -- in ways where  
20          communities are split would -- would certainly  
21          indicate a possibility of a gerrymandered situation.  
22          Those I -- I would think, primarily.

23          Q.       And what steps do you take to ensure that  
24          the maps you're drawing don't improperly consider  
25          race?

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BERNSTEIN

I just don't know when that was scheduled but I do know that we after the 16th, December 16th meeting we were going to meet again before we would go back into session, which would be the second Tuesday in the month.

Q. So if I represent --

A. Would be the third Tuesday, I'm getting all confused.

Q. If I represented to you that this hearing was on December 29th, do you have any reason to doubt that?

A. That sounds --

MR. MOORE: Objection as to form.

A. That sounds correct. If you could give me a date where you -- I just don't know when it was scheduled, if it was scheduled at the December 16th meeting or after this letter was released to the public.



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BERNSTEIN

Q. You mentioned that this was -- you had vacation at this time with Christmas; is that correct?

A. Correct.

Q. Was it difficult for you to make time to attend this hearing?

A. No. I had plans to be back, I think we traveled on Christmas Day. I'm Jewish so it makes it easier with the Christmas holiday. In that respect. So for some reason I wanted to say it was actually Christmas Day, could have been the 26th that we were coming back.

So I would have been in town -- I'll tell you my office, law office is located across from the -- across the street from the State House. But it's not as inconvenient for me to attend meetings especially in Columbia on short notice than it would other members of the committee or other members of the legislature.

1 effective in representing the people in that area.  
2 And that met with the population requirements to be  
3 within one person in each of the districts, so  
4 that -- that they complied with population.

5 Q. So, to recap and to be clear, subcommittee  
6 staff did not set out to make sure that CD 1 was more  
7 Republican leaning than it was in the benchmark plan?

8 A. Not -- not that I'm aware of, no.

9 Q. What about -- which might be 6 in 1, half  
10 dozen of the other. Did staff set out to make sure  
11 that the map, as a whole, maintained 6 to 1  
12 Republican advantage?

13 A. Staff looked at how each of the  
14 submissions had come in. And, again, taking a  
15 totality of the sectors and the guidelines, as well  
16 as looking at how the districts could be best  
17 configured for effective representation. And that  
18 was how a plan was arrived at.

19 But, ultimately, when the plan was  
20 reported out of the subcommittee, it had to be agreed  
21 upon by the subcommittee members. There --  
22 therefore, it -- it had to have a legislative  
23 imprimatur.

24 And so all of those were factors in coming  
25 up with the plan that got reported out of

1 subcommittee to the full committee, and ultimately to  
2 the Senate floor.

3 Q. Of course. And I understand that point.  
4 My question was more -- goes more to whether it was  
5 staff objective to draft a map that preserved a 6 to  
6 1 Republican advantage?

7 A. No.

8 Q. I just have a few more questions. These  
9 are about the House's process. Were -- in -- in  
10 December of last year, were you aware that the  
11 House's ad hoc committee was working on its first  
12 staff plan?

13 A. I -- I was not familiar with their  
14 process, no.

15 Q. Do you know when ad hoc committee in the  
16 House released its first Staff plan?

17 A. I -- I do not remember, off the top of my  
18 head, no.

19 Q. Did you review the House's staff plan?

20 A. Honestly, I -- I work with staff on the  
21 Senate plan. I don't really remember an analysis of  
22 the House plan.

23 Q. You -- when you say you don't remember an  
24 analysis of the House plan, do you recall if  
25 subcommittee staff reviewed the draft plan?